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163-258

RECORD, CASE NO. 15346.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1893.

TERM NO., ~~962~~. 546 248

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

HARRY L. LAWS.

ON A CERTIFICATE FROM THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

FILED JULY 8, 1893.

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In testimony whereof, I hereunto subscribe my name and affix the seal of said United States circuit court of appeals, at the city of Cincinnati, this 22d day of June, A. D. 1893.

[SEAL.] WALTER S. HARSHA,
Clerk of the United States Circuit Court of Appeals for the Sixth Circuit.

(Indorsement on cover:) Case No. 15346. U. S. circuit court of appeals, 6th circuit. Term No., 962. The United States, plaintiff in error, *vs.* Harry L. Laws. Filed July 8th, 1893.

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BRIEF FOR THE UNITED STATES.

The case which is here on certificate from the circuit court of appeals presents for consideration a single question, which, for convenience and accuracy, may be better stated in the language in which it appears in the record, to wit:

> Is a contract made with an alien in a foreign country to come to this country as a chemist on a sugar plantation in Louisiana, in pursuance of which contract such alien does come to this country and is employed on a sugar plantation in Louisiana, and

his expenses paid by the defendant, a contract to perform labor or service as prohibited in the act of Congress passed February 26, 1885?

* * * * * *

STATEMENT OF FACTS.

A. Seeliger was, on or about July 22, 1889, a citizen of the German Empire, residing at Dormagen, Germany. At that date it is claimed that the defendant made a contract with him to come to the United States as a chemist on a sugar plantation in Louisiana, and that Seeliger agreed to come to the United States for that purpose, and that the defendant paid his expenses to the United States; that Seeliger paid his expenses to the United States (?); that Seeliger came to the United States and went to Louisiana, and was there employed on a sugar plantation as chemist under the direction of the defendant.

ARGUMENT.

By *Act of February 26, 1885* (23 Stat. L., 332), it was made—

> Unlawful for any person, company, partnership, or corporation, in *any manner whatsoever*, to prepay the transportation, or in *any* way assist or encourage, the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia.

SEC. 2. That all contracts or agreements, express or implied, parol or special, which may hereafter be made, by and between any person, company, partnership, or corporation, and any foreigner or foreigners, alien or aliens, to perform labor or service, or having reference to the performance of labor or service, by any person in the United States, its Territories, or the District of Columbia, previous to the migration or importation of the person or persons whose labor or service is contracted for, into the United States, shall be utterly void and of no effect.

Section 3 provides a penalty for violation of the first section, and prescribes the method of its recovery.

Section 5 provides that the act shall not be construed to apply to the private secretaries, servants, or domestics of foreigners temporarily resident here; nor to contracts for the importation of skilled workmen to perform labor—

> in or upon any new industry, not at present established in the United States; nor to professional actors, artists, lecturers, singers, nor personal or domestic servants; nor to relatives or friends brought to this country.

By *Act of March 3, 1891* (26 Stat. L., 1085), the foregoing act is amended as to section 5 by adding to the proviso the words:

> Nor to ministers of any religious denomination, nor persons belonging to any recognized profession, nor professors for colleges and seminaries;

And by excluding the words "and any relative or personal friend."

By *Act of March 3, 1891* (27 Stat. L., 569), facilities are provided for the enforcement of the immigration and contract-labor laws of the United States.

It can not be denied that a contract with one to emigrate from Germany to the United States to take employment "as a chemist on a sugar plantation in Louisiana," is within the letter of the prohibitory statute.

One who works as "a chemist on a sugar plantation" certainly performs labor and service.

In the case of *Holy Trinity Church* v. *The United States*, brought in 1887 in the circuit court of the United States for the southern district of New York, and decided May 21, 1888 (36 Fed. Rep., 303), the question was presented whether the act embraced a minister of the gospel, and that court held that it did, on the ground that the minister was brought to this country under a contract to perform labor or service in the United States.

But this court, in an opinion delivered by Mr. Justice Brewer (143 U. S., 457), reversed the judgment of the circuit court, holding that the statute should not receive a strict and literal construction, because it appeared from the title of the act and from its contemporaneous history and from the reports of the committees of Congress, as well as from the clearly manifest policy of the Federal and State Governments from colonial times, that whatever the letter of the statute might be it never "intended to make it a misdemeanor for a church of this country to contract for the services of a Christian minister residing in another nation."

Certainly ministers of the gospel do perform labor and service; and so, literally, come within the inhibition of the statute. But, as Mr. Justice Brewer has said:

> It is a familiar rule that a thing may be within the letter of the statute and yet not within the statute, because not within its spirit nor within the intention of its makers.

"The letter killeth, but the spirit giveth life." Danger lies in a too literal construction, but it is more frequently encountered in the temptation which besets the courts to enforce what is called "the equity of the statute."

In *Maillard* v. *Lawrence* (16 How., 261) Mr. Justice Daniel, speaking for the court, said:

> The popular or received import of words furnishes the general rule for the interpretation of public laws, as well as of private and social transactions; and wherever the legislature adopts such language in order to define and promulge their action, or their will, the just conclusion from such a course must be that they not only themselves comprehended the meaning of the language they have selected, but have chosen it with reference to the known apprehension of those to whom the legislative language is addressed and for whom it is designed to constitute a rule of conduct, namely, the community at large.

In the construction of the legislation on the subject of foreign immigration the legislature and the courts appear to have differed widely as to the scope and meaning of the language employed.

In 1883 the district court of Oregon, construing the treaty with China, held that "a Chinese actor or theatrical performer is not a 'laborer' within the purview of said

treaty or law" (*In re Ho King*, 8 Saw., 439), and we find in the *Act of February 26, 1885* (*supra*), that "actors" are expressly excepted from the class of persons whose importation under contract was prohibited by that act.

The case of *Church of the Holy Trinity* v. *The United States* was decided in the circuit court May 21, 1888; and while that case was pending in the Supreme Court of the United States the act of March 3, 1891, was passed, which adds to the class of persons excepted from the operation of the act of February 26, 1885—

> Ministers of any religious denomination, persons belonging to any recognized profession, and professors for colleges and seminaries.

It is evident, then, that Congress deemed this additional legislation necessary to exclude the classes of persons described in the amendment from the operation of the original act.

The general class prohibited by the act of February 26, 1885, consists of aliens or foreigners imported "to perform labor or service of any kind in the United States."

The classes excepted by that statute and its amendments are servants or domestics of foreigners temporarily resident here, skilled workmen to work on new industries, professional actors, artists, lecturers, singers, personal or domestic servants, ministers of any religious denomination, persons belonging to any recognized profession, professors of colleges or seminaries.

The inquiry presented in this case is, Does a chemist on a sugar plantation in Louisiana fall within the general class, or does he fall within any of the excepted classes?

Mr. Justice Brewer, in *Holy Trinity Church* v. *United States* (143 U. S., 565), said:

> We find, therefore, that the title of the act, the evil which was intended to be remedied, the circumstances surrounding the appeal to Congress, the reports of the committee of each House, all concur in affirming that the intent of Congress was simply to stay the influx of this cheap, unskilled labor.

This broad and sweeping declaration as to the intent of Congress was certainly not necessary to the judgment of the court in that case, nor is it sanctioned by the language of the original act or of any of its amendments, and certainly finds no support from the long catalogue of excepted classes which Congress has found it necessary to provide for by express legislation.

If only "cheap, unskilled labor" was contemplated by Congress in its legislation on this subject, it is difficult to perceive why it should have been thought necessary to except from the class of cheap, unskilled labor "skilled workmen to work on *new industries*."

What difference could it make, if the intent of Congress was "simply to stay the influx of this cheap, unskilled labor," that the skilled workmen were imported to work on *new* rather than old industries?

In the case of *Joseph Lees* v. *United States*, decided by the circuit court of the United States for the eastern district of Pennsylvania in May, 1889, and which was subsequently reversed in this court on a question of evidence and practice, the sole charge on which the defendant was convicted in the lower court was that he had imported foreign skilled laborers under a contract to work on an

industry which defendants believed to be a new industry, but which was ascertained on the trial to be an old and established industry. It was conceded there that the laborers so imported were skilled laborers. Had it been known or supposed that the intent of Congress, as expressed in the act, was confined to "cheap, unskilled labor," the expenditure of much skilled labor on the part of court and counsel might have been avoided.

If it is to be a rule of decision in the construction of this course of legislation that it applies simply to "cheap, unskilled labor," then we must admit on the part of the United States that "a chemist on a sugar plantation in Louisiana" does not come within the definition. But we do not understand the court to have so decided or that it will so construe this act.

If such a "chemist" as is referred to here does not come within the intendment of the law, it must be because he does not fall within the general class of persons "to perform labor or service of any kind within the United States," or because he does fall within one or the other of the excepted classes above described.

IS A "CHEMIST" ON A SUGAR PLANTATION IN LOUISIANA A PERSON ENGAGED IN LABOR OR SERVICE, OR DOES HE BELONG TO "ANY RECOGNIZED PROFESSION?"

Applying now all the rules of construction suggested in *Holy Trinity Church* v. *United States*, and guided by the spirit, rather than controlled by the letter of the law, let us see just what class of business or occupation is presented in the case of such a chemist as the one before us.

Chemistry, as known at this day, is a science. The alchemy of an earlier age was an art. The chemist is one who is learned and skilled in the principles and substances on which his science rests and with which it deals; he is recognized as a man of science, and, perhaps, is within the accepted definition of a "professional" man.

"Profession" is defined in the Century Dictionary as—

> The calling or occupation which one professes to understand and follow; vocation; specifically, a vocation in which a professed knowledge of some department of science or learning is used by its practical application to affairs of others, either in advising, guiding, or teaching them, or in serving their interests or welfare in the practice of an art founded on it. Formerly, theology, law, and medicine were specifically known as *the professions;* but as the applications of science and learning are extended to other departments of affairs, other vocations also receive the name. The word implies professed attainments in special knowledge as distinguished from mere skill. A practical dealing with affairs as distinguished from mere study or investigation; and an application of such knowledge to uses for others, as a vocation as distinguished from its pursuit for its own purposes. * * *

The present age appears to be distinguished by a false shame on the part of mechanics and tradesmen of their several vocations and a prurient desire to dignify them with false titles. The undertaker is now a "funeral director;" the barber shop is a "tonsorial parlor;" the

dressmaker and the milliner are "artists," although the circuit court of the southern district of New York in *United States* v. *Thompson* (41 Fed. Rep., 28) has held in construing this very act that—

> Milliners, dressmakers, tailors, cooks, and barbers are not "artists" within the popular and received import of that word.

The German who was imported into this country under a contract made in Germany to perform certain work on a sugar plantation in Louisiana is called a "chemist," because the duty assigned to him is the exercise of an art in which he has doubtless acquired, empirically, a knowledge of the treatment of the extraction of saccharine matter from the cane and boiling it in such a way as to produce sugar of a certain kind.

Many of the large establishments for the manufacture of iron and other metals for dyeing cloth, for making aniline dyes, extracts, tinctures, etc., employ just such class of skilled workmen, who are also called "chemists," but who certainly are not chemists within the recognized and accepted definition given above; their learning and skill are not in the principles of the science, but in the practice of the art.

The chemist in this case was a mere employee, hired by his employer, to whose will he was subject.

In *Vane* v. *Newcombe* (132 U. S., 220) the question was whether a person who contracts with a telegraph company to do the specified work of putting up certain lines of wire on poles was an employee within the meaning of the act giving to employees of corporations a lien on

the corporate property for all work done by them for the corporation. This court, through Blatchford, J., said, page 234:

> To be an employee within the meaning of the statute Vane must have been a servant, bound, in some degree at least, to the duties of a servant and not, as he was, a mere contractor, bound only to produce, or cause to be produced, a certain result—a result of labor, to be sure—but free to dispose of his own time and personal efforts according to his pleasure, without responsibility to the other party.

Now, here this "chemist" was not a free agent. He is not described in the certificate as "a chemist," but as "a chemist *on a sugar plantation in Louisiana*." He was a chemist only there, and only for the puposes which his employment on that place occasioned. He *served* his employer and performed the *labor* prescribed in his contract.

Had he been a professional chemist, offering his services to the public at large, holding himself ready to apply his scientific knowledge and skill to all persons who applied for them, he would be entitled to the claim of "belonging to a recognized profession." But he had contracted to sell his time, his labor, and his skill in his art to one single, narrow, prescribed service.

One may be a lawyer, a graduate of a law school, and licensed to practice his profession as a lawyer, but if he hires himself out as a mere law clerk in a law office he can not be said to be engaged in "any recognized profession." He has abandoned the practice of his profession and engaged in the practice of an art which the

knowledge of the principles and practice of the law may enable him to perform more efficiently than he would otherwise be able to do.

The distinction is well illustrated and enforced by two decisions of the supreme court of the State of Pennsylvania, where a statute gave a laboring man a lien on the property on which he had performed labor.

In the *Bank of Pennsylvania* v. *Gries* (35 Penna. St., 423) it was held:

> A mere naked architect, and who may be such without being an operative mechanic, who draws plans in anticipation of buildings—usually to enable the builder to determine the kind he will erect, could hardly be supposed to be within the act which provides a lien for work done for or about the erection or construction of the building. But very distinguishable from this is the case of a party employed to devote his entire time to a building, and who draws the plans for every part of the work and directs its execution according to such plans and specifications. This is labor, but mechanical labor of a high order, etc.

But in *Price* v. *Kirk* (90 Penna., 47) the court, passing upon the same statute, distinguished this from the former case, holding that an architect who simply provided the plans and specifications for a building was not entitled to a lien.

In *Pennock* v. *Fuller* (41 Mich., 150) it was said that—

> Professional employment can only relate to some of those occupations universally classed as professions, the general duties and character of which courts must be expected to understand judicially.

It must be recognized and admitted that this legislation was adopted in pursuance of a general policy of *protection*, which at that time prevailed and was paramount in this country, and which is hinted at by Mr. Justice Brewer on page 464 of the case so often referred to above, where he says:

> It was never suggested that we had in this country a surplus of brain toilers; and, least of all, that the market for the service of Christian ministers was depressed by foreign competition.

But it has, with frequent and painful iteration, been suggested that we had a surplus of skilled artisans and other wage earners, beside those engaged in "cheap, unskilled labor" in this country.

And here we clearly discern the motive, purpose, and intent of Congress in limiting the importation under contract of "skilled laborers" into this country to those who were to "work and labor on *new* industries."

It would be the height of folly to impose protective duties on foreign fabrics and manufactures imported into this country and permit the importation, without restriction, of the workmen whose empirical skill and knowledge had imparted to such fabrics and manufactures the qualities which rendered them preferable to our own.

Our schools and colleges of technology are every year adding to the list of young men who have received certificates of their qualification to produce, with more efficiency and economy, the fruit of our manufacturing establishments, by reason of their technical knowledge and skill, and thus in time relieve us from the dangers

by which we are supposed to be threatened from competition with the product of foreign manufacturers. There can be no reasonable doubt that these, as well as the "cheap, unskilled laborers," were within the intelligent view and beneficent intent of Congress in providing the protection which this legislation is supposed to afford.

"Chinese cheap labor" was, primarily, the cause of the Macedonian cry that came up to Congress from the sand lots of the Pacific Coast. But it awakened an echo in the East which was kept alive by the labor leagues, American railway unions, and organizations whose membership did not consist of cheap, unskilled labor, but comprised all the grades of mechanical employment, from locomotive engineers, railway conductors, telegraph operators, and superintendents of machine shops down to the knights of the pick and shovel.

The sweeping and comprehensive terms employed by Congress in the act of February 26, 1885, may perhaps be attributed to the zealous haste which was stimulated by the popular clamor of the day. But a *locus penitentiæ*, a cooling time, has followed, which Congress has improved by omitting certain classes of persons believed to be embraced within the purview of the statute. It has nowhere said, however, in any of the amendments to that act that it was to be confined in its operations to "cheap, unskilled labor." On the contrary, by expressly excepting certain specified classes, it has, by every recognized canon of construction, plainly manifested its intent and purpose to reach all classes within the scope of the original act, save those excepted therein and in the amendments.

In *Lake County* v. *Robbins* (130 U. S., 670) this court said:

> To get at the thought or meaning expressed in a statute, a contract, or a constitution, the first resort in all cases is to the natural signification of the words in the order of grammatical arrangement in which the framers of the instrument have placed them. If the words convey a definite meaning, which involves no absurdity nor any contradiction of other parts of the instrument, then that meaning, apparent on the face of the instrument, must be accepted; and neither the courts nor the legislature have the right to add to it or take from it. (*Newell* v. *People*, 7 N. Y., 9, 97; *Hills* v. *Chicago*, 60 Ill., 86; *Dunn* v. *Reid*, 10 Peters, 524; *Leonard* v. *Wiseman*, 31 Md., 201; *People* v. *Potter*, 47 N. Y., 375; Cooley Const. Lim., 57; Story on Const., sec. 400; *Beardstown* v. *Virginia*, 76 Ills., 34.) So, also, where law is expressed in plain and unambiguous terms, whether those terms are general or limited, the legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction. (*United States* v. *Fisher*, 2 Cranch, 358, 399; *Doggett* v. *Florida R. R.*, 99 U. S., 72.)

On the whole case I submit that it can not reasonably be denied that the person imported under the contract to work as a chemist on a sugar plantation in Louisiana was imported for "labor or service" there; that he is not a person "belonging to any recognized profession;" that he is not an artist; that he is not a "skilled workman to work on new industries," but that he is simply an employee engaged to practice an art which brings him

into competition with hundreds of American citizens whom the statute was intended to protect against just such foreign competition.

HOLMES CONRAD,
Solicitor-General

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BRIEF FOR THE DEFENDANT IN ERROR.

The question certified to this court by the Circuit Court of Appeals (Mr. Justice Brown and Circuit Judges Jackson and Taft), is:

"Whether a contract made with an alien in a foreign country to come to this country, as a chemist on a sugar plantation in Louisiana, in pursuance of which contract such alien does come to this country and is employed on a sugar plantation in Louisiana, and his expenses paid by the defendant, is a contract to perform labor or service as prohibited in the Act of Congress passed February 26, 1885," c. 164, 23 Stat. 332.

We submit that the question should be answered in the negative.

It is true of this case, as it was of the case of Church of the Holy Trinity *vs.* United States, 143 U. S. 457, that the contract complained of is within the letter of the statute. That was a case in which the Church of the Holy Trinity, a corporation under the laws of the state of New York, made a contract with an alien residing in England, under which he removed to the city of New York, and entered into the service of the corporation as rector and pastor. The court said :

"It must be conceded that the act of the corporation is within the letter of this section, for the relation of rector to his church is one of service, and implies labor on the one side with compensation on the other. Not only are the general words labor and service both used, but also, as it were to guard against any narrow interpretation and emphasize a breadth of meaning, to them is added "of any kind;" and, further, as noticed by the Circuit Judge in his opinion, the fifth section, which makes specific exceptions, among them professional actors, artists, lecturers, singers and domestic servants, strengthens the idea that every other kind of labor and service was intended to be reached by the first section." 143 U. S. 459.

But the court, while recognizing "the great force to this reasoning," held that the contract was "not within the statute, because not within its spirit, nor within the intention of its makers." The court referred to the title of the act, the evil which the act was designed to remedy, and the reports of the Committees of each house on which the act was based, for the purpose of discovering the intention of Congress, and, as the conclusion of the whole matter, said :

"We find, therefore, that the title of the act, the evil which was intended to be remedied, the circumstances surrounding the appeal to Congress, the reports of the com-

mittee of each house, all concur in affirming that *the intent of Congress was simply to stay the influx of this cheap unskilled labor.*" (143 U. S. 465.)

The argument of the Solicitor-General is an attack upon the conclusion thus stated as the unanimous judgment of the court. In reaching that conclusion the court, referring to the title of the act, said:

"Now the title of this act is, 'An act to prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the, United States, its Territories, and the District of Columbia. Obviously, the thought expressed in this reaches only to the work of the *manual laborer, as distinguished from that of the professional man.* No one, reading such a title, would suppose that Congress had in its mind any purpose of staying the coming into this country of ministers of the gospel, or, indeed, of any class whose toil is that of the brain."

Referring to the evil which the statute was designed to remedy, as disclosed by contemporaneous events, and the situation as it existed, and as it was pressed upon the attention of Congress, the court said:

"It was this *cheap unskilled labor* which was making the trouble, and the influx of which Congress sought to prevent." (143 U. S. 464.)

The opinion then quotes the following passage from the report of the senate committee on education and labor, recommending the passage of the bill:

"The general facts and considerations which induce the committee to recommend the passage of this bill are set forth in the report of the committee of the house. The committee report the bill back without amendment, although there are certain features thereof which might well be changed or modified, in the hope that the bill may

not fail of passage during the present session. Especially would the committee have otherwise recommended amendments, substituting for the expression "labor and service" whenever it occurs in the body of the bill, the words "manual labor," or "manual service," as sufficiently broad to accomplish the purposes of the bill, and that such amendments would remove objections which a sharp and perhaps unfriendly criticism may urge to the proposed legislation. The committee, however, *believing that the bill in its present form will be construed as including only those whose labor or service is manual in character*, and being very desirous that the bill become a law before the adjournment, have reported the bill without change." 6059 Congressional Record, 48th Congress.

In the report of the Committee of the House, thus referred to by the Committee of the Senate, there appears this language:

"It seeks to restrain and prohibit the immigration or importation of laborers who would have never seen our shores but for the inducements and allurements of men whose only object is to obtain labor at the lowest possible rate, regardless of the social and material well-being of our own citizens, and regardless of the evil consequences which result to American laborers from such immigration. This class of immigrants care nothing about our institutions, and in many instances never even heard of them; they are men whose passage is paid by the importers; they come here under contract to labor for a certain number of years; they are ignorant of our social condition, and that they may remain so they are isolated and prevented from coming into contact with Americans. They are generally from the lowest social stratum, and live upon the coarsest food and in hovels of character before unknown to American workmen. They, as a rule, do not become citizens, and are certainly not a desirable acquisition to the body politic. The inevitable tendency of their presence among us is to degrade American labor, and to reduce it to the level of the imported pauper labor." Page 5359, Congressional Record, 48th Congress.

The court also refer, in the case of the Church of the Holy Trinity, to the circumstance that the contract there involved was for service to be performed for a religious society, but that is not a consideration that can properly differentiate this case from that. The inquiry, under the statute, must be directed to the intrinsic nature of the service itself, and not to the character of the person or corporation for whom it is to be rendered. Religious societies have no special privileges under the law. All persons and corporations, whether religious, educational or commercial, must have the same right to contract for service, professional in its nature, as distinguished from manual labor. The logical basis of the decision in the case of the Church of the Holy Trinity, must be found, and can be found only, in the ground upon which the judgment was expressly rested by the court, to-wit: that notwithstanding the general terms of the Act of February 26, 1885, "the intent of Congress was simply to stay the influx of cheap unskilled labor," and that the act does not therefore apply to professional labor or service.

The Solicitor-General finally concedes this and rests his case upon the distinction supposed to be involved in the circumstance that the chemist referred to in the certificate at bar engaged his services to a particular patron. The Solicitor-General says:

> "Had he been a professional chemist offering his services to the public at large, holding himself ready to apply his scientific knowledge and skill to all persons who applied for them, he would be entitled to the claim of belonging to a recognized profession. But he had contracted to sell his time and his labor and his skill in his art to one single, narrow, prescribed service."

But this distinction can not be maintained. A chemist is none the less engaged in a professional labor because he confines his energies to a particular department of chemistry, or in behalf of a particular patron. The argument of the Solicitor-General would convert the general counsel of a railroad company, and even the Solicitor-General himself, into a hireling, not entitled to rank as a professional man, because forsooth he "sells his time and labor" to a single client, and confines his energies to a more or less prescribed sphere of professional activity.

The certificate gives us no special information concerning the service that Seeliger was engaged to perform, beyond the simple statement that he was to serve as a "chemist." The further statement that the service was to be performed "on a sugar plantation in Louisiana," does not qualify the character of the service. It indicates merely the place where the service was to be performed. The question certified must therefore be dealt with, as one presenting the case of purely professional labor, because, according to the definitions of all lexicographers, a chemist is one skilled in the science of chemistry, or a professor of chemistry.

The Solicitor-General goes outside of the record before the court to suggest that Seeliger is probably called a "chemist" only because he has acquired knowledge of the treatment of saccharine matter empirically, and that he belongs to a class of skilled workmen not properly designated chemists. The fact is that Seeliger was a graduate of the celebrated school at Dormagen, Germany, and the "offence" with which my client is charged, and for

which, in the latter end of the nineteenth century, and in a free country, he is being prosecuted through all the courts, up to this august tribunal of last resort, is based upon the claim that, while on a visit to Germany, he encouraged this man of science to come to the United States to furnish assistance that could not otherwise be secured, in the development of an industry that has long been deemed of sufficient importance to the people of the whole country to receive the encouragement of congressional aid in one form or another, even to the extent of levying taxes for the payment of bounties to those engaged in it.

We respectfully submit that the statute (being criminal and therefore to be strictly construed) was not intended to condemn the act complained of.

LAWRENCE MAXWELL, JR.,
Counsel for the Defendant in Error.